

# **EXHIBIT 5**

# Merchant & Gould

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December 7, 2006

**VIA EMAIL**

David M. Young, Esq.  
Hunton & Williams LLP  
1751 Pinnacle Drive, Suite 1700  
McLean, VA 22102

**Re: *Textron Innovations Inc. v. The Toro Company***  
**Our Ref: 6372.149USZA**

Dear David:

Thank you for your letter of today. We will not be able to finish our review by December 13, given the summary judgment letter briefing schedule. I am looking at other dates in December and will call you when I return to Minneapolis to finalize arrangements.

Very truly yours,

  
Anthony R. Zeuli

ARZ:cmf

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